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OFFICE OF PETITIONS

In re Application of	:	
CRESCENZI et al.	:	DECISION ON APPLICATION
Application No. 10/540,449	:	FOR
Filed: June 22, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. ITR0046YP	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)," filed March 17, 2008. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from 177 days to 206 days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **206 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 23, 2008, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date is 177 days. In response, applicants timely¹ filed the instant request for reconsideration of the patent term adjustment.

¹ Office records indicate that the issue fee payment was received on March 17, 2008.

Applicants request that the patent term adjustment be corrected to 206 days. Applicants dispute the reduction pursuant to 37 CFR 1.704(b) of 29 days on the ground that they did not fail to engage in reasonable efforts to conclude prosecution of the application.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The application history has been reviewed and it has been determined that the initial patent term adjustment of 177 days is incorrect. The Office mailed a nonfinal Office action on July 3, 2007, within four months after the date of the filing of applicants' reply on April 12, 2007. Although the nonfinal Office action of July 3, 2007, was mailed to the correct correspondence address of record, the Office action was returned by the United States Postal Service to the USPTO. Accordingly, a letter restarting the period for reply (and re-mailing the Office action) was mailed on August 3, 2007. Applicants' response filed November 2, 2007, was received within the three-month period after the date of the mailing of the Office action as re-mailed on August 3, 2007. Accordingly, a period of reduction of 29 days is not warranted and is being removed.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is 206 days.

The Office will charge the \$200.00 fee set forth in 37 CFR 1.18(e) to the Deposit Account as authorized. No additional fee is required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of updated PAIR screen

Day : Wednesday

Date: 7/16/2008

Time: 14:48:40

PALM INTRANET**PTA Calculations for Application: 10/540449**

Application Filing Date:	06/22/2005	PTO Delay (PTO):	206
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	29
Post-Issue Petitions:	0	Total PTA (days):	206
PTO Delay Adjustment:	29		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
52	07/16/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	29		
39	01/23/2008	MAIL NOTICE OF ALLOWANCE			
38	01/23/2008	ISSUE REVISION COMPLETED			
37	01/23/2008	DOCUMENT VERIFICATION			
36	01/23/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
35	01/23/2008	CASE DOCKETED TO EXAMINER IN GAU			
34	01/22/2008	EXAMINER'S AMENDMENT COMMUNICATION			
33	01/22/2008	NOTICE OF ALLOWABILITY			
28	11/17/2007	DATE FORWARDED TO EXAMINER			
27	11/01/2007	RESPONSE AFTER NON-FINAL ACTION		29	24
26	08/03/2007	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
25	08/01/2007	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
24	07/03/2007	MAIL NON-FINAL REJECTION			
23	06/25/2007	NON-FINAL REJECTION			
22	04/12/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	04/24/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	04/12/2007	REFERENCE CAPTURE ON IDS			
19.7	04/12/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	17
19	04/12/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	04/26/2007	DATE FORWARDED TO EXAMINER			
17	04/12/2007	RESPONSE TO ELECTION / RESTRICTION FILED			

16	03/16/2007	MAIL RESTRICTION REQUIREMENT	206		-1
15	03/14/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
14	06/19/2006	CASE DOCKETED TO EXAMINER IN GAU			
13	04/24/2006	REFERENCE CAPTURE ON IDS			
12.7	04/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	04/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	06/22/2005	PRELIMINARY AMENDMENT			
10	02/09/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	02/09/2006	CASE DOCKETED TO EXAMINER IN GAU			
8	11/21/2005	CLEARED BY OIPE CSR			
7	11/21/2005	CLEARED BY OIPE CSR			
6	06/27/2005	371 COMPLETION DATE			
5	10/25/2005	APPLICATION DISPATCHED FROM OIPE			
4	10/25/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
3	07/21/2005	PCT CLASSIFICATION			
2	07/21/2005	PCT CLASSIFICATION			
1	06/22/2005	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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